

Amendment Number 1
to
Contract Number DIR-TSO-2567
between
State of Texas, acting by and through the Department of Information Resources
and
CGI TECHNOLOGIES AND SOLUTIONS, INC.

This Amendment Number 1 to Contract Number DIR-TSO-2567 ("Contract") is between the Department of Information Resources ("DIR") and CGI Technologies and Solutions, Inc. ("Vendor"). DIR and Vendor agree to modify the terms and conditions of the Contract as follows:

1. **Contract, Section 2. Term of Contract** is hereby amended as follows:

DIR and Vendor hereby agree to extend the term of the Contract for one (1) year through July 22, 2016, or until terminated pursuant to the termination clauses contained in the Contract. Prior to expiration of the term, DIR and Vendor may extend the Contract, upon mutual agreement, for up to two (2) additional one-year renewal terms.

2. **Contract, Section 6. Notification** is hereby restated as follows:

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Dana L. Collins, CTPM, CTCM
Manager, Contract and Vendor Management
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 936-2233
Facsimile: (512) 475-4759
Email: dana.collins@dir.texas.gov

If sent to the Vendor:

Kim Lo
CGI Technologies and Solutions, Inc.
111 Congress Avenue
Suite 400
Austin, Texas 78701
Phone: (512) 279-7882
Facsimile: (512) 279-7893
Email: kim.lo@cgi.com

3. **Appendix A. Standard Terms and Conditions For Product and Related Services Contracts**, is hereby restated in its entirety and replaced with the attached **Appendix A. Standard Terms and Conditions For Product and Related Services Contracts** dated 02/04/2015.

4. **Authorized Exceptions to Appendix A, Standard Terms and Conditions For Product and Related Service Contracts** dated 02/04/2015.

A. Appendix A, Section 3. Definitions, B. Compliance Check is hereby replaced in its entirety as follows:

B. Compliance Check – an audit of Vendor’s compliance with the Contract may be performed by, but not limited to, a third party auditor, DIR Internal Audit department, or DIR contract management staff or their designees; provided, however, that DIR may not designate as a third party auditor any person that is identified by Vendor as a competitor of Vendor. Any third party auditor retained by DIR in connection with such audits will execute a non-disclosure agreement as attached hereto as Appendix H, Confidentiality Agreement.

B. Appendix A, Section 4. General Provisions, F. Choice of Law is hereby replaced in its entirety as follows:

F. Choice of Law

The laws of the State shall govern the construction and interpretation of the Contract. Exclusive venue for all actions will be in state court, Travis County, Texas. Nothing in the Contract or its Appendices shall be construed to waive the State’s sovereign immunity. Choice of laws and venue with respect to purchase orders and statements of work between Vendor and non-Texas Customers shall be as mutually agreed in the applicable purchase order or statement of work.

C. Appendix A, Section 5. Intellectual Property Matters, B. Ownership is hereby replaced in its entirety as follows:

B. Ownership.

Except as otherwise expressly provided in this Section 5.B, as between Vendor and Customer, the Work Product and Intellectual Property Rights therein are and shall be owned exclusively by Customer, and not Vendor. Vendor specifically agrees that the Work Product shall be considered “works made for hire” and that the Work Product shall, upon creation, be owned exclusively by Customer. This Section 5.B shall not apply to project deliverables expressly agreed by Customer and Vendor to be incorporated in baseline licensed software (“Baselined Deliverables”). Such Baselined Deliverables are not Work Product within the meaning of this Section 5.B and shall owned by Vendor and licensed to Customer as “Software” within the meaning of Appendix D, Proprietary Software License Agreement. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Vendor hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to Customer all right, title and interest in and

to all ownership rights in the Work Product, and all Intellectual Property Rights in the Work Product, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Vendor acknowledges that Vendor and Customer do not intend Vendor to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday through Friday, 8AM to 5PM) and upon reasonable prior notice to Vendor, to all Vendor materials, premises and computer files containing the Work Product. Vendor and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted hereunder to any Third Party IP, except as may be incorporated in the Work Product by Vendor.

D. Appendix A, Section 8. Pricing, Purchase Orders, Invoices and Payments, C. Customer Price, 3) is hereby replaced in its entirety as follows:

C. Customer Price

3) If pricing for products or services available under this Contract is provided by the Vendor at a lower price to: (i) an eligible Customer who is not purchasing those products or services under this Contract or (ii) to any other customer under the same terms and conditions provided for the State for the same commodities and services under this contract, then the available Customer Price in this Contract shall be adjusted to that lower price. This requirement applies to products or services quoted by Vendor or its resellers for a quantity of one (1) under substantially similar terms and conditions, and does not apply to volume or special pricing purchases. Vendor shall notify DIR within ten (10) days and this Contract shall be amended to reflect the lower price. This Section 8.C. (3) is not applicable to non-Texas entity Customers.

E. Appendix A, Section 9. Contract Administration, C. Records and Audit, 1) is hereby replaced in its entirety as follows:

C. Records and Audit

1) Acceptance of funds under the Contract by Vendor and/or Order Fulfiller acts as acceptance of the authority of the State Auditor's Office, or any successor agency or designee, to conduct an audit or investigation in connection with those funds. Vendor further agrees to cooperate fully with the State Auditor's Office or its successor or designee in the conduct of the audit or investigation, including providing all records requested. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Vendor or directly by Order Fulfillers and the requirement to cooperate is included in any subcontract or Order Fulfiller contract it awards pertaining to the Contract. Under the direction of the Legislative Audit Committee, a Vendor that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit.

F. Appendix A, Section 10. Vendor Responsibilities, A. Indemnification 2) Acts or Omissions is hereby replaced in its entirety as follows:

2) Acts or Omissions

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY TO THIRD PARTIES, OR THIRD PARTY ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES out of, or resulting from any negligent or intentional acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

G. Appendix A, Section 10. Vendor Responsibilities, J. Background and/or Criminal History Investigation is hereby replaced in its entirety as follows:

J. Background and/or Criminal History Investigation

Prior to commencement of any services, background and/or criminal history investigation of the Vendor and/or Order Fulfiller's employees and subcontractors who will be providing services to the Customer under the Contract may be performed by CGI, which will certify the results of such investigations to by certain Customers having legislative authority to require such investigations. Should any employee or subcontractor of the Vendor and/or Order Fulfiller who will be providing services to the Customer under the Contract not be acceptable to the Customer as a result of the background and/or criminal history check, then Customer may immediately terminate its Purchase Order and related Service Agreement or request replacement of the employee or subcontractor in question.

H. Appendix A, Section 10. Vendor Responsibilities, K. Limitation of Liability is hereby replaced in its entirety as follows:

K. Limitation of Liability

For any claim or cause of action arising under or related to the Contract: i) to the extent permitted by the Constitution and the laws of the State, none of the parties shall be liable to the other for punitive, special, or consequential damages, even if it is advised of the possibility of such damages; and ii) unless otherwise expressly agreed by Customer and Vendor in the applicable Statement of Work, Vendor's liability for damages of any kind to the Customer shall be limited to the total amount paid to Vendor under the Contract during the twelve months immediately preceding the accrual of the claim or cause of action. However, this limitation of Vendor's

liability shall not apply to claims of bodily injury; violation of intellectual property rights including but not limited to patent, trademark, or copyright infringement; indemnification requirements under this Contract; and violation of State or Federal law including but not limited to disclosures of confidential information and any penalty of any kind lawfully assessed as a result of such violation.

I. Appendix A, Section 10. Vendor Responsibilities, N. Required Insurance Coverage, 1) Commercial General Liability is hereby replaced in its entirety as follows:

1) Commercial General Liability

Commercial General Liability must include a combined single limit of \$1,000,000 per occurrence for coverage A, B, & C including products/completed operations, where appropriate, with a separate aggregate limit of \$2,000,000. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:

- a) Blanket contractual liability coverage for liability assumed under the Contract;
- b) Independent Contractor coverage;
- c) State of Texas, DIR and Customer listed as an additional insured;
- d) Vendor shall endeavor to provide 30-day Notice of Termination in favor of DIR and/or Customer; and
- e) Waiver of Transfer Right of Recovery Against Others in favor of DIR and/or Customer.

J. Appendix A, Section 10. Vendor Responsibilities, N. Required Insurance Coverage, 3) Business Automobile Liability Insurance is hereby replaced in its entirety as follows:

3) Business Automobile Liability Insurance

Business Automobile Liability Insurance must cover all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternative acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of DIR and/or Customer:

- a) Waiver of Subrogation;
- b) Vendor shall endeavor to provide 30-day Notice of Termination; and
- c) Additional Insured.

5. Exhibit A – Proprietary Software License Agreement to Appendix D – CGI Technologies and Solutions Inc. Software License Agreement is hereby added as attached hereto.

All other terms and conditions of the Contract not specifically modified herein shall remain in full force and effect. In the event of a conflict among provisions, the order of precedence shall be this Amendment Number 1 and then the Contract.

IN WITNESS WHEREOF, the parties hereby execute this amendment to be effective as of the date of the last signature, but in all events, no later than July 22, 2015.

CGI TECHNOLOGIES AND SOLUTIONS, INC.

Authorized By: Signature on File

Name: Michael D. Wendland

Title: Vice President, Consulting Srvs

Date: Aug. 4, 2015

The State of Texas, acting by and through the Department of Information Resources

Authorized By: Signature on File

Name: Dale Richardson

Title: Chief Operations Officer

Date: 8/10/15

**Office of
General Counsel:** DRBrown 8-7-15